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10 NAVJEET SINGH BANGA,
11 Plaintiff,
12 v.
13 CHRIS GUS KANIOS, et al.,
14 Defendants.

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16 Case No. 16-cv-04270-RS

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28 **ORDER DENYING MOTION TO
RESOLVE CASE BY ARBITRATION
OR BENCH TRIAL**

Following a recent settlement conference, Plaintiff filed a “motion to allow the case to be resolved by arbitration or bench trial.” Dkt. 493. In essence, this amounts to a (renewed) motion to strike Defendants’ request for a jury trial. Even putting aside its procedural defects, the motion is meritless. As Defendants point out, Plaintiff requested this exact form of relief over a year and a half ago — and that request was denied. *See* Dkt. 436. It remains the case that Defendants did not waive their right to a jury trial, nor have they consented to withdrawal of Plaintiff’s jury demand. *See* Fed. R. Civ. P. 38(d). Rather, Defendants (not to mention the Court) have for years relied on the notion that this case will proceed as a jury trial, even as recently as December 2022 when the jury trial was slated to proceed in January 2023. Defendants’ reliance having been established, there is no basis to strike the jury trial demand. *See Cal. Scents v. Surco Prods., Inc.*, 406 F.3d 1102, 1105–06 (9th Cir. 2005).

Plaintiff argues he must be allowed to proceed via bench trial or arbitration as a matter of fairness, “because there would be an imbalance of the representation of the parties in a trial by

1 jury." Dkt. 493, at 2. As has been articulated many times, the Court agrees it would be preferable
2 not to proceed with this case as a jury trial. However, since Defendants for whatever reason insist
3 on doing so (as is their right), this Court simply has no discretion to proceed in a different manner,
4 unless and until the parties agree otherwise. Further, while such an imbalance in representation
5 may indeed occur, Plaintiff unfortunately assumed that risk by making a jury demand and not
6 timely withdrawing it. The motion is denied.

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8 **IT IS SO ORDERED.**

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10 Dated: June 1, 2023

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RICHARD SEEBORG
Chief United States District Judge